

Chapter Trans 4

URBAN MASS TRANSIT OPERATING ASSISTANCE PROGRAM

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Trans 4.01 Purpose and scope. The purposes of this chapter are to establish the department of transportation's administrative interpretation of s. 85.20, Stats., and to prescribe administrative policies and procedures for implementing the urban mass transit operating assistance program.

History: Cr. Register, November, 1978, No. 275, eff. 12-1-78; am. Register, May, 1982, No. 317, eff. 6-1-82.

Trans 4.02 Eligible applicants. (1) In accordance with the statutory definitions in s. 85.20 (1), Stats., eligible applicants are local public bodies in urban areas which are served by urban mass transit systems incurring operating deficits.

(2) "Local public bodies" are defined to be:

(a) Counties, municipalities or towns, or agencies thereof;

(b) Transit or transportation commissions or authorities and public corporations established by law or by interstate compact to provide mass transportation services and facilities; or,

(c) Two or more of any such bodies acting jointly under s. 66.30, Stats.

(3) "Mass transit system" means an entity which provides the general public with passenger transportation services on a regular and continuing basis. The transportation services for the general public may be provided by buses, rail, shared-ride taxicabs or other conveyance. A mass transit system may provide specialized transportation services for the elderly and the handicapped by operating a subsystem, or by contracting for such services with another agency. An agency which provides transportation services exclusively for a subgroup of the general public is not a "mass transit system" for purposes of this chapter.

(4) "Private provider" means a privately owned entity that owns facilities or revenue passenger vehicles used to provide transit service.

(5) "Public provider" means any provider of mass transit service not defined as a private provider.

(6) "Revenue passenger vehicle" means a vehicle used to transport revenue paying passengers on a mass transit system.

(7) "Shared-ride taxicab" means a taxicab legally able to simultaneously transport passengers having different origins or destinations.

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(8) "Subsystem" means that part of a transit system which provides special services to the elderly or the handicapped.

(9) "Urban area" means any area that includes a city or village having a population of 5,000 or more that is appropriate, in the department's judgment, for an urban mass transit system. The department will determine the population of a city or village within an urban area using the most recent estimates prepared by the department of administration.

(10) "Urban mass transit system" means a mass transit system providing at least two-thirds of its revenue miles of service within the boundaries of an urban area.

(11) "User-side subsidy" means financial assistance provided directly to a user of a mass transit system or of a subsystem thereof in the form of a voucher provided to the user by the local public body for use in payment of a fare, or a portion of a fare, for a trip taken on an urban transit system or eligible subsystem.

History: Cr. Register, November, 1978, No. 275, eff. 12-1-78; am. (1), (3) and (6), Register, May, 1982, No. 317, eff. 6-1-82; renum. (3) to (6) to be (10), (3), (9) and (8) and am. (3), cr. (4) to (7) and (11), Register, October, 1986, No. 370, eff. 11-1-86.

Trans 4.03 Appropriateness of urban areas. In determining whether an urban area is appropriate for an urban mass transit system for purposes of granting state aid the department shall use the following criteria:

(1) All urban areas receiving state urban mass transit aids and served by urban mass transit systems as of December 31, 1982 shall be deemed appropriate.

(2) Except as provided for in sub. (1), an urban area shall be deemed appropriate if the electorate of its most populous public body approves a referendum question prior to the filing of its second year's application asking whether the public body should subsidize the operations of an urban mass transit system.

History: Cr. Register, November, 1978, No. 275, eff. 12-1-78; r. and rec. Register, May, 1982, No. 317, eff. 6-1-82; emerg. am. (2), eff. 11-18-83; am. (2), Register, April, 1984, No. 340, eff. 5-1-84.

Trans 4.04 Project costs. (1) Eligible project costs are limited to the operating expenses of an urban mass transit system, including labor, fringe benefits, materials and supplies, utilities, insurance, purchased transportation services, license fees and lease expenses. For publicly owned mass transit systems, only the wages and fringe benefits of those employees whose activities are directly related to the day-to-day operation of the system shall be considered eligible project costs. If those employees do not work full time on transit, only that portion of their time spent on transit shall be considered.

(2) Eligible project costs may include the costs of user-subsidies provided to handicapped persons.

(3)(a) This subsection is applicable only to urban areas served exclusively by shared-ride taxicab systems and not served by any other mass transit service. In lieu of using eligible project costs as described in subs. (1) and (2), project costs may consist of the costs of user-side subsidies for the reasonable fares paid by all users of urban mass transit services within the urban area. In determining the eligible project costs, a reasonable fare shall be calculated by dividing total projected annual operating

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expenses by the projected number of annual revenue passengers. Such projections shall be subject to review and approval by the department. Eligible project costs shall equal the difference between the calculated reasonable fare and the fares actually charged the passengers after subsidy by the local public body. A local public body using general public user-side subsidies shall have no eligible project costs other than the eligible costs for user-side subsidies.

(b) Local public bodies having user-side subsidies shall provide vouchers to participating shared-ride taxicab systems. Each voucher shall be completed and signed both by the shared-ride taxicab driver and by the passenger for each subsidized trip provided. Payment by the local public body to the shared-ride taxicab system shall be based on a monthly invoice of the fully completed vouchers. State aids shall be paid quarterly to the local public body.

(4) If urban mass transit service is provided under a local public body contract with a private provider chosen following advertisement for competitive bids, eligible project costs may include profit or return on investment and may include depreciation of facilities and capital equipment used directly for the provision of urban mass transit services. If a facility is a joint-use facility, depreciation costs for only that portion of the facility used in the provision of urban mass transit services are eligible project costs. In these circumstances, eligible project costs may only include costs associated with the bid accepted by the local public body. No costs shall be eligible project costs unless the bid process and all bids received are approved by the department prior to the award of a contract to the private provider.

(5) The following expenses are not eligible project costs:

(a) Depreciation and amortization, except as authorized by sub. (4).

(b) Taxes paid which are subject to rebate.

(c) Interest expense.

(d) Profit, except as authorized by sub. (4).

(e) Lease-purchase payments.

(f) Lease payments to a related party which would constitute less than an arms-length agreement.

(g) Lease payments for revenue passenger vehicles unless the situation exists necessitating a short-term lease. For purposes of this subsection, a short-term lease is defined to be of one year or less in duration. If the grantee is actively pursuing a federal grant to purchase vehicles, the eligibility of lease payments may be extended until such time as the purchased vehicles have been delivered.

(h) Entertainment costs.

(i) Fines and penalties.

(j) Bad debts.

(k) Charitable deductions.

(l) User-side subsidies, except as authorized by subs. (2) and (3).

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(m) Payments to members of advisory committees, transit commissions or transit boards.

(n) Federal, state and local income taxes.

(o) Charter-related expenses.

(p) Expenses related to hauling freight.

(q) Expenses related to contractual agreements for special planning studies.

(r) Indirect transit-related functions or activities of regional or local entities performed as a normal or direct aspect of general public administration.

(s) Expenses for contingencies or capital acquisitions, including contributions to a capital reserve account or fund. For purposes of determining eligible operating expenses, capital acquisitions are defined as the purchase of non-expendable personal property with a useful life of more than one year and an acquisition cost of \$300 or more per unit. A unit is defined as one or more like items. The cost of materials and supplies utilized in facility or vehicle repairs, regardless of cost, shall be considered as eligible operating costs so long as such repairs involve replacement of existing items.

(t) For privately owned mass transit systems, the wages and fringe benefits of any public employees.

History: Cr. Register, November, 1978, No. 275, eff. 12-1-78; r. and recr. (1), am. (2), (3) and (4), Register, May, 1982, No. 317, eff. 6-1-82; emerg. r. and recr. eff. 11-18-83; r. and recr. Register, April, 1984, No. 340, eff. 5-1-84; am. (1), renum. (2) to be (6) and am. (2)(a), (d) and (l), cr. (2) to (4), Register, October, 1986, No. 370, eff. 11-1-86.

Trans 4.05 State share of eligible project costs. (1) The state's share of eligible project costs may not exceed either:

(a) Thirty-seven and one-half percent of the audited operating expenses as determined by the department for the project year of the applicant's urban mass transit system; or

(b) The non-federal share of the audited operating deficit as determined by the department for the project year of the applicant's urban mass transit system.

(2) "Operating deficit" means the amount by which the total operating expenses incurred in the operation of a mass transit system exceeds the amount of operating revenues derived therefrom.

(3) "Operating revenues" means income accruing to a mass transit system by virtue of its operations, excluding any income derived from the sale of charter service or the hauling of freight.

(4) "Operating expenses" shall be determined in accordance with s. Trans 4.04.

History: Cr. Register, November, 1978, No. 275, eff. 12-1-78; r. and recr. Register, May, 1982, No. 317, eff. 6-1-82; emerg. r. and recr., eff. 11-18-83; r. and recr. Register, April, 1984, No. 340, eff. 5-1-84; am. (1)(a) and (4), Register, October, 1986, No. 370, eff. 11-1-86.

Trans 4.06 Distribution of state aids. (1) The department shall distribute the state appropriations for this program among eligible applicants in accordance with the procedures set forth in s. 85.20 (4m), Stats. Register, October, 1986, No. 370

(2) From the amounts appropriated, an amount equal to 37.5% of the projected operating expenses of each eligible applicant's mass transit system shall be allocated to each eligible applicant.

(3) If the amounts appropriated are less than 37.5% of the projected operating expenses of the mass transit systems of all applicants, the allocations shall be made on a proportional basis.

(4) State aids shall be paid to recipients on a quarterly basis. If the department's audit establishes that the state aid commitment has exceeded either 37.5% of the mass transit system's actual operating expenses, or the actual nonfederal share of the mass transit system's operating deficit, then the recipients shall refund to the department an amount sufficient to reduce the state aids to equal the lesser of the 2 sums.

History: Cr. Register, November, 1978, No. 275, eff. 12-1-78; r. and recr. Register, May, 1982, No. 317, eff. 6-1-82; emerg. am. (2), (3) and (4), eff. 11-18-83; am. (2), (3) and (4), Register, April, 1984, No. 340, eff. 5-1-84; am. (2) to (4), Register, October, 1986, No. 370, eff. 11-1-86.

Trans 4.07 Application for state aids. (1) Applications shall be made in a form and manner prescribed by the department. If more than one public body in a given urban area contributes assistance to a mass transit system, one public body should submit a single application on behalf of all participating local governments. The applicant public body, as well as all other participating local governments, shall assure that the required local shares of eligible project costs will be available.

Note: Standard application forms are available from the DOT Transit Bureau, P.O. Box 7914, Madison, Wisconsin 53707.

(2) Applications for aids shall be submitted to the department no later than November 15 of the year immediately preceding the proposed project year. Applicants may request up to a 45-day extension of this due date and the department may grant such requests. No application received after January 1 of the project year shall be funded unless the secretary of transportation determines that a later date is appropriate in order to properly respond to an emergency situation.

(3) Eligible applicants in "urbanized" areas shall submit a copy of their application to the appropriate metropolitan planning organization.

(4) For purposes of this chapter a "project year" is defined to be a calendar year. The assisted transit services may be operated for less than a calendar year.

(5) The applicant shall submit the original of its application to the appropriate transportation district office of the department.

History: Cr. Register, November, 1978, No. 275, eff. 12-1-78; am. (2), cr. (5) and (6), Register, July, 1981, No. 307, eff. 8-1-81; am. (1), r. (3), renum. (4) to (6) to be (3) to (5), Register, May, 1982, No. 317, eff. 6-1-82; am. (2), Register, October, 1986, No. 370, eff. 11-1-86.

Trans 4.08 State aid contracts. (1) For each calendar year, the department may execute an annual aid contract with each eligible applicant.

(2) State aid contracts may be terminated by either the department or the applicant under the following conditions:

(a) By the department, if the department determines that the purpose of the aid program as expressed in s. 85.20, Stats., is not being fulfilled, or

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if the recipient fails to comply with the terms and conditions of the state aid contract.

(b) By the recipient, if the recipient makes a formal application to the department to do so.

(3) A state aid contract may be terminated as provided in sub: (2) by giving written notice of intent to terminate, sent by certified mail, at least 30 calendar days prior to the proposed termination date.

(4) State aid contracts shall require that recipients do the following:

(a) Pay the operating deficit of the mass transit system;

(b) Provide reduced fare programs for elderly and handicapped persons during nonpeak hours (reduced fares may not exceed one-half of the adult cash fare);

(c) Establish and maintain accounting procedures and documents as prescribed or approved by the department;

(d) Assure that the mass transit system will count "revenue passenger trips" in accordance with ch. Trans 3.

(e) Assure that the mass transit system will file any reports required by the department at a time and in a manner prescribed by the department; and

(f) Assure that, if other local public bodies contribute assistance to the operation of the mass transit system, the state aids received are allocated among the contributors in accordance with any cost sharing agreement that is filed with the department. If no agreement is filed, the aids shall be distributed among the contributors in proportion to their contributions.

(5) Each state aid contract shall include an appendix entitled "Transit Management Plan." The "Transit Management Plan" shall describe for the contract year how the transit system will be operated, the amount of service which will be provided, the fares to be charged, steps to be taken to make the system operate more effectively and efficiently, and the procedures to be used for establishing revenue passenger trips for the system. Mass transit policy and management decisions made and actions taken during the contract period shall be in conformance with the "Transit Management Plan." Any proposed deviations from the "Transit Management Plan" shall be reported to the department and departmental concurrence secured prior to implementation. The department shall determine if a formal amendment to the "Transit Management Plan" is required. The department may also require the applicant to hold a public hearing on the proposed change prior to the department's determination on the proposal.

(6) If the recipient contracts for mass transit service with a privately owned system, the recipient shall execute a formal contract with the system. The contract shall be submitted to the department for review and approval prior to execution.

History: Cr. Register, November, 1978, No. 275, eff. 12-1-78; r. and recr. Register, May, 1982, No. 317, eff. 6-1-82; emerg. r. and recr. (5), eff. 11-18-83; r. and recr. (5), Register, April, 1984, No. 340, eff. 5-1-84.

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Trans 4.09 Planning requirements. As a condition of eligibility to receive state aids, an applicant is required to annually prepare and submit to the department a 4-year transit development program, in the form and manner prescribed by the department.

History: Cr. Register, May, 1982, No. 317, eff. 6-1-82.